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*REPORT TO THE CONGRESS*

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Contract Award  
Procedures And Practices  
Of The Office  
Of Economic Opportunity  
Need Improving B-130515

*BY THE COMPTROLLER GENERAL  
OF THE UNITED STATES*

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DEC. 15, 1971



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-130515

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To the President of the Senate and the  
Speaker of the House of Representatives

This is our report pointing out that contract award procedures and practices of the Office of Economic Opportunity need improving.

Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

Copies of this report are being sent to the Director, Office of Management and Budget, and to the Director, Office of Economic Opportunity.

A handwritten signature in cursive script, reading "James B. Stacks".

Comptroller General  
of the United States

D I G E S T

WHY THE REVIEW WAS MADE

The Office of Economic Opportunity (OEO) has broad authority to enter into contracts and agreements with public agencies and with private organizations and persons to carry out antipoverty programs. OEO contractors

- perform evaluations, research, and other studies;
- provide training, technical assistance, and logistical and other program support services;
- operate OEO programs, projects, and facilities; and
- supply computer services, publications, and related support items and services.

In fiscal years 1969 through 1971, OEO awarded about 600 contracts totaling \$170 million. (See pp. 5 and 6.)

Because OEO has been spending a significant amount of funds on contracts each year and because OEO has been awarding a large number of its contracts in the final month of the fiscal year--when time constraints can result in contract award problems--the General Accounting Office (GAO) has reviewed the adequacy of the policies, procedures, and practices used by OEO in awarding fiscal years 1969 and 1970 contracts and has given particular attention to the effects of fiscal year-end time constraints on contracts awarded in June. Subsequently GAO made a follow-up review of OEO's fiscal year 1971 contracting activities, to ascertain whether improvements had been made in OEO's contracting procedures. (See p. 6.)

FINDINGS AND CONCLUSIONS

Year-end contracting

Traditionally OEO has awarded a large volume of contracts in June, the final month of the fiscal year.

In June 1969 OEO awarded 149, or 45 percent, of the 332 contracts awarded throughout fiscal year 1969. The June awards amounted to \$22.7 million, or 18 percent, of the \$128.4 million for all new contracts awarded in fiscal year 1969.

June 1970 awards represented 56 percent of the 169 contracts awarded by OEO throughout fiscal year 1970 and 69 percent of the \$22.9 million for all 1970 new contracts. (See p. 9.) GAO's follow-up review showed that a large percentage of contracts still were being awarded in June 1971. (See p. 11.)

A combination of circumstances has resulted in OEO's disproportionately large volume of June contract awards. (See pp. 8 to 10.)

- Program offices were not submitting their procurement requests until late in the fiscal year.
- Many June contracts were for activities of a continuing nature and were being reawarded in the final month of each fiscal year.
- Late enactment of OEO appropriation laws caused a delay in funding new projects. OEO had authority, however, to fund continuing activities until appropriations were received.

#### Submission of contractors' proposals

OEO did not always allow prospective contractors sufficient time for preparation of proposals--in some cases less than 10 calendar days. The short periods allowed by OEO for preparation of proposals in some cases tended to restrict the number of contractors' proposals. Also insufficient time might cause contractors to submit higher cost proposals than they otherwise might submit if given more time to develop their proposals.

Generally, for contracts awarded in June 1971, the periods allowed by OEO for the preparation of proposals showed significant improvement over the periods allowed for contracts awarded in June 1969 and June 1970; generally the contractors were allowed between 20 and 29 days. (See p. 12.)

#### Evaluation of contractors' proposals

The high level of activity involved in fiscal year-end contracting lessened OEO's ability to evaluate adequately the strengths and weaknesses of prospective contractors and their proposals.

For example, as of June 22, 1970, a total of 18 proposals had been submitted to OEO by prospective contractors bidding on two contracts to provide training and technical assistance services costing about \$1.1 million. In less than 48 hours, the regional office that had requested the contracts completed its technical evaluation of the 18 proposals and recommended two contractors, both of which had performed similar work in the region the preceding year.

Members of one of the regional office evaluation panels informed GAO that they had spent only 2-1/2 hours evaluating the proposals. On June 30, 1970, OEO awarded contracts to the two contractors recommended by the regional office.

OEO has sought to improve the technical evaluation process in its regional offices by issuing instructions containing comprehensive review procedures. (See pp. 17 and 18.)

Contract negotiating practices

OEO did not always include in the negotiation process all contractors that had submitted responsive proposals determined to be in a competitive range although required to do so by the Federal Procurement Regulations. A Comptroller General decision of August 1970 specifically pointed to the need for OEO to improve its procurement procedures. GAO noted, for contracts awarded in June 1971, that there had been a marked increase in the negotiations held with contractors submitting responsive proposals. (See p. 20.)

Determining contractors' responsibility

Prior to the award of many of its contracts, OEO did not determine adequately--contrary to the Federal Procurement Regulations--whether prospective contractors possessed the technical and financial capacity to perform proposed contracts or were eligible to receive such contracts under applicable Government laws and regulations.

For instance, on June 27, 1969, OEO awarded a contract for recruiting medical employees to an organization incorporated under a name different from that shown on the contract document and not authorized to do business in the State where its principal offices were located. OEO did not obtain organizational or financial information on the corporate entity to which it awarded the contract, and, because of the existing uncertainties, OEO terminated the contract for the convenience of the Government in August 1969 at a cost of \$28,550.

Several other instances were noted by GAO in which OEO had not determined the adequacy of contractors' accounting systems and related financial controls prior to awarding contracts. (See pp. 22 to 25.)

RECOMMENDATIONS OR SUGGESTIONS

OEO should:

- Require program and regional offices to prepare annual procurement plans that show their contract needs for each fiscal year quarter.
- Stagger contract performance periods so that contracts for continuing activities will reach completion in months other than June.
- Allow prospective contractors sufficient time to develop and submit proposals and require adequate OEO evaluations of the proposals submitted.
- Include in the negotiation process all contractors that have submitted responsive proposals determined to be in a competitive range.

--Make all reasonable efforts, prior to contract award, to determine the responsibility of prospective contractors. (See p. 27.)

AGENCY ACTIONS AND UNRESOLVED ISSUES

OEO recognized the problems and stated that measures had been taken to strengthen OEO's contract process. OEO has convened a high-level task force to reexamine and assess OEO's planning process, as well as the various phases associated with project definition, project management, and source solicitation and selection. (See p. 27.)

MATTERS FOR CONSIDERATION BY THE CONGRESS

This report is being submitted to the Congress in view of its continued interest in OEO activities in general and because several committees and members of Congress have expressed specific interest in OEO's contracting activities.

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## ABBREVIATIONS

GAO	General Accounting Office
OEO	Office of Economic Opportunity

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- Include in the negotiation process all contractors that have submitted responsive proposals determined to be in a competitive range.

--Make all reasonable efforts, prior to contract award, to determine the responsibility of prospective contractors. (See p. 27.)

AGENCY ACTIONS AND UNRESOLVED ISSUES

OEO recognized the problems and stated that measures had been taken to strengthen OEO's contract process. OEO has convened a high-level task force to reexamine and assess OEO's planning process, as well as the various phases associated with project definition, project management, and source solicitation and selection. (See p. 27.)

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## CHAPTER 1

### INTRODUCTION

Overall authority of the Office of Economic Opportunity to enter into contracts is contained in section 602 (n) of the Economic Opportunity Act, as amended (42 U.S.C. 2942), which authorizes the Director, OEO, to:

"\*\*\* establish such policies, standards, criteria, and procedures, prescribe such rules and regulations, enter into such contracts and agreements with public agencies and private organizations and persons, make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants, with necessary adjustments on account of overpayments or underpayments), and generally perform such functions and take such steps as he may deem to be necessary or appropriate to carry out the provisions of this Act."

As permitted by the above authority, OEO enters into numerous contracts each fiscal year. Although contract purposes vary widely, in general, OEO contractors (1) perform evaluations, research, and other studies, (2) provide training, technical assistance, logistical and other program support services, (3) operate OEO programs, projects, and facilities, and (4) supply computer services, publications, and related support items and services. Most of OEO's contracts are awarded on the basis of competition and negotiations with competing contractors.

Within OEO the Procurement Division has been delegated the authority to enter into and administer contracts. In carrying out this responsibility, the Procurement Division operates in accordance with the Federal Procurement Regulations which are supplemented by its own procurement policies and procedures.

Contracts are planned by OEO program and regional offices and are initiated through the development of procurement requests which are forwarded to the Procurement Division for processing. The major steps in processing a procurement

request include (1) the preparation and distribution of requests for proposals, (2) the receipt and technical evaluation of proposals submitted by competing contractors, (3) the negotiation with all responsible offerors within a competitive range, and (4) the selection of a qualified contractor that can meet the Government's need for the least amount of money.

The extent to which OEO entered into contracts during the last 3 fiscal years is shown in the following table.

<u>Fiscal year</u>	<u>Number of contracts</u>	<u>Amount (000 omitted)</u>
1969	332	\$128,431
1970	169	22,856
1971	104	19,251

The level of OEO contracting decreased significantly in fiscal year 1970, primarily because the administration of certain OEO programs, such as Job Corps and Head Start programs, was transferred from OEO to other executive agencies. Our survey of OEO's contracting activities showed that a large number of its contracts were being awarded in the final month of the fiscal year.

#### SCOPE OF REVIEW

The purpose of our review was to evaluate the adequacy of OEO's policies, procedures, and practices in awarding contracts, particularly with respect to (1) the solicitation of proposals from prospective contractors and OEO's technical evaluation of resulting proposals, (2) the amount of competition sought by OEO prior to executing negotiated contracts, and (3) the selection of qualified and responsible contractors. Particular attention was given to contracts awarded in June and to problems associated with June contracting.

Our review was made at OEO headquarters in Washington, D.C., where we analyzed pertinent data on contracts awarded during fiscal years 1969 and 1970. We reviewed in detail OEO's contracting actions on selected contracts awarded during the 2 years and considered applicable OEO and other contracting laws and regulations. We interviewed

officials of OEO's Procurement Division and the OEO program offices that had initiated the contracts cited in this report. Also we made a follow-up review of OEO's fiscal year 1971 contracting activities, to ascertain whether improvements had been made in OEO's contracting procedures.

In addition to making a review of OEO's contract award procedures and practices, we have made detailed reviews of OEO's management of contracts for evaluations and other studies and for training and technical assistance services. The results of these two reviews will be the subjects of separate reports.

## CHAPTER 2

### NEED FOR IMPROVEMENTS IN

#### CONTRACTING PROCEDURES AND PRACTICES

OEO awarded a large proportion of its contracts during the final month of the fiscal year.

Time constraints caused by June contracting resulted in OEO's not allowing sufficient time for contractors to prepare proposals, which, in turn, restricted the number of contractors willing to submit proposals. Also short time periods for contractors to prepare proposals, according to the Federal Procurement Regulations, might cause contractors to submit higher cost proposals than they otherwise might submit if given more time to develop their proposals. The fiscal year-end contracting also limited the time available to OEO for evaluating contract proposals.

Other weaknesses in OEO's contract-awarding process, not necessarily attributable to the high volume of fiscal year-end contracting, included OEO's failure to negotiate with all prospective contractors within a competitive range and OEO's inadequate preaward efforts to determine the responsibility of prospective contractors.

#### LARGE VOLUME OF FISCAL YEAR-END CONTRACTING

OEO traditionally has awarded a large volume of contracts in June, the final month of the fiscal year. June contracting in the first few years of OEO's existence may have resulted because of the newness and inexperience of the agency and, in part, because of OEO's desire to utilize all appropriated funds to combat poverty before they became unavailable for obligation after the close of the fiscal year for which they had been appropriated.

In more recent years, however, a combination of circumstances has resulted in the award of a disproportionate volume of OEO contracts in the final month of the fiscal year. OEO's level of contracting for fiscal years 1969 and 1970 is shown in the following table.

OEO contract awards (note a)				
	<u>Number</u>	<u>Percent</u>	<u>Amount (millions)</u>	<u>Percent</u>
Fiscal year 1969:				
All contracts	<u>332</u>	<u>100</u>	<u>\$128.4</u>	<u>100</u>
Other than June contracts	183	55	105.7	82
June contracts	149	45	22.7	18
Fiscal year 1970:				
All contracts	<u>169</u>	<u>100</u>	<u>\$ 22.9</u>	<u>100</u>
Other than June contracts	75	44	7.0	31
June contracts	94	56	15.9	69

<sup>a</sup>Contract awards include only new contracts awarded and do not include contract modifications or amendments.

One of the circumstances that caused increased June contracting was that OEO program offices were submitting their contract requirements late in the fiscal year. To illustrate, 184, or 76 percent, of the total 243 contracts awarded in June 1969 and 1970 resulted from procurement requests that were received by the Procurement Division in May or June, the final 2 months of the fiscal year.

In April 1971 the Associate Director for Administration said that this had occurred because there was no formal procurement planning system within OEO to require all program and regional offices to develop and follow a funding plan which would identify, by fiscal year quarters, the procurement requirements of the agency.

Another circumstance that has led to increased June contracting is that OEO contracts usually are awarded for a 1-year period. Contracts for continuing types of activities that are awarded in June of one fiscal year will be reawarded in June of the following fiscal year. This

situation has had a multiplying effect on OEO's level of June contracting and partially explains the increase between fiscal year 1969, when 45 percent of all contracts were awarded in June, and fiscal year 1970, when 56 percent of all contracts were awarded in June.

A factor which OEO officials cited as having a bearing on fiscal year-end contracting was that the Congress had appropriated OEO funds several months after the fiscal year had begun. The following table shows OEO's appropriation history for fiscal years 1965 through 1971.

<u>Fiscal year</u>	<u>Appropriation</u>		<u>Months remaining in the fiscal year</u>
	<u>Date Congress approved</u>	<u>Amount (000,000 omitted)</u>	
1965	Oct. 7, 1964	\$ 800	9
1966	" 31, 1965	1,500	8
1967	" 27, 1966	1,687	8
1968	Jan. 2, 1968	1,773	6
1969	Oct. 11, 1968	1,948	9
1970	Mar. 5, 1970	1,948	4
1971	Jan. 11, 1971	1,323	6

To enable OEO to continue its operations in the new fiscal year, the Congress has given OEO limited authority to obligate funds until appropriations for the new year are approved. Under this continuing authority funds can be obligated for continuing projects or activities which were conducted in the previous fiscal year. Therefore the lateness of congressional action on OEO's appropriation bills should not have necessitated the high level of fiscal year-end contracting, especially in fiscal year 1970 when OEO's budget request did not contain any major new programs or any significant increases in funds over the prior year's budget request.

In April 1971 OEO's Deputy Director informed us that, although continuing funding authority technically had permitted OEO to fund continuing projects and activities, OEO had followed the policy that, until the Congress appropriated OEO its funds, contracts for only the highest priority projects would be awarded.

In commenting on a draft of this report, OEO, in a letter dated August 9, 1971, stated that:

"During the past fiscal year, we believe that there was a noticeable decrease in the percentage of contract awards in June. Our contract award statistics for Fiscal Year 1971 disclose that 33 percent of our contracts were awarded during the month of June compared to 56 percent in Fiscal 1970 \*\*\*."

The OEO contract award statistics for fiscal year 1971, which showed that 33 percent of the contracts were awarded during the month of June, included, in addition to new contract awards, contract modifications and amendments. Our analysis of OEO's new contract awards showed that 55, or 53 percent, of 104 new contracts were awarded in June 1971. This is comparable to the 56 percent of new contracts awarded in June 1970.

INSUFFICIENT TIME ALLOWED FOR  
SUBMISSION AND EVALUATION  
OF CONTRACTOR'S PROPOSALS

OEO did not always allow prospective contractors sufficient time to develop and submit proposals, and we found evidence that this had restricted the number of contractors willing to submit proposals. Also failure to allow contractors sufficient time for preparation of proposals might cause contractors to submit higher cost proposals than they otherwise might submit if given more time to develop their proposals. In addition, the high level of activity involved in fiscal year-end contracting lessened OEO's ability to adequately evaluate the strengths and weaknesses of prospective contractors and their proposals.

Submission of contractors' proposals

The Federal Procurement Regulations do not specify minimum time periods for contractor submission of proposals to be used as a basis for contract negotiations. For formally advertised procurements, however, the regulations state that:

"As a general rule, bidding time shall be not less than 15 calendar days when procuring standard commercial articles and services and not less than 30 calendar days when procuring other than standard commercial articles or services."

Although OEO generally has procured other than standard commercial articles and services, the periods allowed contractors for submission of proposals during fiscal years 1969 and 1970 in many cases were less than 30 days. OEO awarded a total of 243 contracts in June 1969 and 1970, of which 148 were awarded competitively rather than on a sole-source basis. Our analysis of the periods allowed by OEO for preparation of proposals on 128<sup>[1]</sup> of the contracts follows.

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<sup>1</sup>The 20 contracts not reviewed were for programs transferred to other executive agencies. The files for these contracts were not readily available at OEO.

Days allowed for preparation of proposals	Contracts			
	<u>Number</u>	<u>Percent</u>	<u>Amount</u>	<u>Percent</u>
	(000 omitted)			
0 to 10	5	4	\$ 1,430	6
11 to 20	75	59	12,479	49
21 to 29	<u>40</u>	<u>31</u>	<u>9,287</u>	<u>37</u>
Total	<u>120</u>	<u>94</u>	<u>23,196</u>	<u>92</u>
30 or over	<u>8</u>	<u>6</u>	<u>2,036</u>	<u>8</u>
Total	<u>128</u>	<u>100</u>	<u>\$25,232</u>	<u>100</u>

Further, according to the Federal Procurement Regulations, adequate time for preparation of proposals is necessary because undue time limitations tend to restrict competition and to increase prices.

The extent of competition sought and received by OEO on contracts awarded in fiscal years 1969 and 1970 is shown in the following table.

	Average number of proposals for each contract		<u>Percent</u>
	<u>Solicited</u>	<u>Received</u>	
Fiscal year 1969:			
Other than June contracts	54	10	18.5
June contracts	105	9	8.6
Fiscal year 1970:			
Other than June contracts	108	15	13.9
June contracts	152	11	7.2

Examples illustrating the effects of short time periods allowed contractors for preparation of proposals follow. In a June 19, 1970, letter to OEO, a prospective contractor responded to two OEO requests for proposals in the following terms.

"In connection with the above items we have no alternative but to submit a 'No Bid' in view of:

- "1 - The short time between date of publication of the above Requests for Proposal [RFP], and
- "2 - The date of receipt of the RFP's, and
- "3 - Due date of the RFP's.

"Your letter of submittal is dated 9 June 1970 but the notice was not published until the June 12th edition of the Commerce Business Daily. We replied on the date of the receipt of the publication which was June 13th. Your reply submitting the Request for Proposal and explanatory paperwork, scope of work etc., was received at 10:00 AM of 18 June 1970, which meant that we had less than two working days to read and analyze the requirements, work out plans for the required personnel and to write, type up and submit our proposal to reach your office by 22 June 1970."

The contractor also stated that OEO had permitted too little time for any organization to properly study and prepare a bona fide proposal and inquired as to why so little time had been allowed for proposal preparation. In an August 10, 1970, letter to the contractor, OEO's contracting officer stated that:

"It is unfortunate that more time could not have been afforded prospective contractors to respond to the referenced RFPs. The reasons for this include funding problems, programmatic situations and the need to obtain a contract as soon as possible, but during a given fiscal year."

Another contractor expressed its concern over OEO's level of fiscal year-end contracting in a letter dated June 26, 1969. The contractor stated that, during 3 years of association with OEO, each year the procurement activities had "become increasingly more chaotic." The contractor stated that:

"\*\*\* This year during the month of May, OEO issued hundreds of RFPs. I am well aware that every agency has an end-of-year peak volume of procurements to commit that year's fiscal funds, though I doubt if any agency has the same proportionate volume with respect to the funds involved.

"The one or two weeks' response time specified by many of the RFP's does not allow the proposer to formulate and prepare a fully responsive proposal. Nor, due to the volume of RFP's issuing forth simultaneously, can a proposer respond adequately to those in his area of business specialization."

The contractor also challenged OEO's ability to adequately evaluate all the proposals that resulted from the many requests for proposals issued late in the fiscal year. The contractor stated that:

"\*\*\* not only does the current procurement procedure place an undue hardship on companies, it also does not allow for full and comprehensive evaluations of proposals which are submitted. I am sure that the OEO is sincerely trying to evaluate objectively the responses to each RFP, but I cannot imagine that the volume and short time allowed allows for thorough and thoughtful evaluations to be accomplished."

In commenting on a draft of this report, OEO stated that it was mindful of its obligation to allow contractors a reasonable time to prepare proposals and that a "minimum bidding time" of 30 days had been observed for 1971 procurements.

In June 1971 OEO competitively awarded 31 contracts. Our review of the periods allowed by OEO for the preparation of proposals for these contracts showed significant improvement over the time allowed for the preparation of proposals for contracts awarded in June of fiscal years 1969 and 1970.

For contracts awarded in June 1971, only one instance was noted in which prospective contractors were allowed less than 20 days for the preparation of proposals, whereas the requests for proposals for 55 percent of contracts awarded

in June 1969 and 1970 allowed less than 20 days for the preparation of proposals. We noted, however, that only 4, or 13 percent, of the 31 requests for proposals had allowed prospective contractors 30 days or more for the preparation of proposals.

### Evaluation of contractors' proposals

In June 1970 OEO competitively awarded 52 contracts, of which seven, amounting to \$1.8 million, were awarded within 10 calendar days after the final date for proposal submission.

Two of these contracts, which totaled about \$400,000 and which required the contractors to provide extensive programs of technical assistance to OEO, were awarded on June 30, 1970, just 5 calendar days after the final date for the submission of proposals. Two other contracts, which amounted to about \$1.1 million, were awarded by OEO on June 30, 1970, just 8 calendar days after the final date for the submission of proposals. The circumstances surrounding OEO's technical evaluation of the latter two contracts are discussed below.

On May 18, 1970, OEO headquarters received two procurement requests from one of its regional offices. The requests were for one contract to provide training and technical assistance to Community Action Programs operated in metropolitan areas of three States within the region and for a second contract to provide the same services in non-metropolitan areas of three States within the region. Under each of the proposed contracts, the contractors were to provide training and technical assistance in various program areas and full-time leadmen; that is, technical specialists who would be responsible for one or more areas of the desired expertise.

In seeking to competitively award the two contracts, the Procurement Division, on June 9, 1970, sent about 300 requests for proposals to prospective contractors. Interested contractors were allowed only 13 calendar days for the preparation and submission of proposals. By the June 22 submission cutoff date, a total of 18 proposals had been submitted, consisting of 11 proposals for metropolitan areas and 7 proposals for nonmetropolitan areas. On June 23, 1970, the 18 proposals were hand-carried from OEO headquarters to the OEO regional office that had initiated the procurement requests to obtain the region's evaluation of the technical responsiveness of each proposal.

The 18 proposals were sorted and distributed among seven regional review panels, each consisting of three to five panel members. The panels had been organized to independently evaluate each prospective contractor's proposed performance, not including costs, within the various functional areas to be addressed under the contracts. By the morning of June 25, 1970, less than 48 hours after it had received the proposals, the regional office had completed its technical evaluation of the 18 proposals. The regional office recommended two contractors, both of which had performed similar contracts in this region in the preceding year. Although neither contractor had submitted the lowest cost proposal, on June 30, 1970, the Procurement Division awarded contracts to the two contractors evaluated as technically superior by the regional office.

Our review did not include efforts to evaluate how well the contracts had been performed. To determine the basis on which the regional office had recommended the two contractors, however, we interviewed the regional official who was in charge of the proposal evaluations and members of two of the seven evaluation panels.

These officials informed us that the time allowed to evaluate all proposals was totally insufficient. The official in charge of the evaluation informed us that there were not even enough copies of the proposals to distribute one to each panel member and that therefore panel members were unable to spend their full time performing the evaluation. One evaluation panel expressed its position on the inadequacy of the evaluation process to the head of the division responsible for training and technical assistance within the region. In a letter dated July 10, 1970, the panel representative stated that:

"Under the time allotted for evaluation the best that could be done was to review the leadmen, leadmen statements and generally scan the proposals for specific content. \*\*\* This method was not sufficient to properly qualify the bidders. The following should be considered as contributing factors to the poor quality of evaluation:

- "1. Insufficient time to adequately evaluate each bidder's proposal \*\*\*.
- "2. There was no opportunity to properly evaluate the qualifications of the leadmen either by interview or investigation. \*\*\* Therefore we cannot be assured of the validity of \*\*\* stated qualifications of said leadmen.
- "3 The lack of uniform criteria and method to properly judge and rate each proposal by each team."

In addition, members of the above panel informed us that they had spent a total of only 2-1/2 hours in evaluating the 18 proposals.

In commenting on a draft of this report, OEO stated the belief that, after issuing instructions detailing comprehensive procedures for the review of technical proposals, sufficient time now was being allowed for the evaluation of contractor proposals. OEO stated also that an average 2 weeks was being expended by OEO regional staffs in the technical evaluation process.

NEGOTIATIONS NOT HELD WITH ALL CONTRACTORS  
SUBMITTING RESPONSIVE PROPOSALS

OEO did not always include in the negotiation process all contractors which submitted responsive proposals, although the Federal Procurement Regulations require that negotiations be conducted with all responsive contractors whose proposals fall within the competitive range.

In fiscal year 1969 OEO negotiated with an average of only 43 percent of the contractors submitting responsive proposals for each contract awarded. In fiscal year 1970 OEO negotiated with an average of 83 percent of the contractors submitting responsive proposals for each contract awarded.

With regard to negotiated contracts, the Federal Procurement Regulations state that, after receipt of initial proposals, written or oral discussions shall be conducted with all responsible offerors which have submitted proposals within a competitive range and that price and other factors shall be considered. Also the Comptroller General has stated that it is a well-established principle in Federal procurements that such discussions must be meaningful and must furnish information to all offerors within the competitive range as to the areas in which their proposals are believed to be deficient so that competitive offerors are given an opportunity to fully satisfy the Government's requirements (47 Comp. Gen. 336 (1967)).

The principle was applied by the Comptroller General in his August 21, 1970, decision (50 Comp. Gen. 117) on a prospective contractor's protest against OEO's March 23, 1970, award of a \$72,000 contract to a higher bidder. The contractor which had submitted the lowest bid claimed that the areas in which its proposal was considered by OEO to be technically deficient had not been set forth fully in the request for proposals as requirements or as evaluation factors and that no meaningful negotiations had taken place between the contractor and OEO.

Although the decision did not reverse OEO's award, it pointed out various deficiencies in the procurement procedures used by OEO, including the failure to negotiate with all

bidders which had submitted responsive proposals and which were in the competitive range. The Director, OEO, was informed that:

"\*\*\* we [GAO] must conclude that the subject contract was awarded under procedures which failed to observe established principles of negotiated competitive procurement. Since the contract was completed in June we do not believe it would be in the public interest for this Office to undertake remedial action in the matter. However, we are calling this procurement to your particular attention so that appropriate action will be taken to insure that in future procurements the RFPs are prepared, negotiations are conducted, and evaluations are made in accordance with such established principles \*\*\*."

In April 1970 OEO issued a series of instructions designed to improve the overall administration of contracts and grants. One of these instructions specifically addressed the need for contract negotiators to make the selection of an offeror and the award of a contract on the most competitive basis practicable. In addition, the Director, Procurement Division, informed us that, in staff meetings with contract negotiators, he had emphasized the need to negotiate with all responsive contractors and that he was closely monitoring this area of the contract-awarding process.

OEO, in commenting on a draft of this report, stated that, for contracts awarded in fiscal year 1971, there had been a marked improvement over previous fiscal years. Our review of the files of 29 contracts awarded in fiscal year 1971 showed only two instances in which negotiations had not been held with all contractors submitting responsive proposals.

INADEQUATE DETERMINATIONS OF  
PROSPECTIVE CONTRACTORS' RESPONSIBLENESS

Prior to the award of many of its contracts, OEO did not adequately determine, contrary to the Federal Procurement Regulations, whether prospective contractors possessed the technical and financial capacity to perform proposed contracts or whether they were eligible to receive such contract awards under applicable Government laws and regulations.

It is the Government's policy that contracts shall be awarded only to responsible prospective contractors; the Federal Procurement Regulations describe a responsible contractor as one which has:

- Adequate financial resources for performance.
- The necessary experience, organization, technical qualifications, skills, and facilities.
- The ability to comply with the proposed or required time of delivery or performance schedule.
- A satisfactory record of integrity, judgment, and performance.
- The ability to conform to the requirements of the Equal Opportunity Clause established for Government contractors.
- The qualifications and eligibility to receive an award under applicable laws and regulations.

The Regulations state that no contract shall be awarded to any person or firm unless the contracting officer first has determined that the person or firm is a responsible prospective contractor. The Regulations state also that the signing of a contract shall be deemed to be a certification by the contracting officer that he has determined that the prospective contractor is responsible.

It is necessary, therefore, that a contracting officer obtain up-to-date information on a prospective contractor's

organizational, financial, and technical qualifications. Information on the adequacy of a prospective contractor's accounting system and internal controls also should be obtained, especially when a cost-reimbursement contract is to be awarded, to ensure that the prospective contractor has the ability to submit reasonable cost estimates and to accurately identify and control contract costs that will be billed to OEO.

To find out whether OEO was getting the up-to-date information needed to judge a contractor's responsibility, we identified contracts totaling about \$8.4 million that were awarded in fiscal year 1970 to 46 contractors who previously had not received an OEO contract and we reviewed 34 of these contracts that were active at the time of our work. OEO contract files included no organizational, financial, or other information to show the responsibility of 22 of the 34 contractors whose contracts totaled \$4.9 million. The following situation illustrates the problems that can result from not making the required preaward determination of a contractor's responsibility.

On June 27, 1969, OEO awarded a cost-plus-fixed-fee contract, in the amount of \$175,770, which required the contractor to (1) identify, screen, and recruit qualified physicians for the Neighborhood Health Center program, (2) develop a system to maximize the opportunity to place recruited physicians at centers, and (3) design plans to motivate more physicians to enter programs centered on the concept of community health care. The contract was awarded competitively to a firm whose technical proposal was judged by OEO program evaluators to be superior to the nine other proposals submitted. Information on the proposed contractor's organizational and financial status, however, was not obtained by OEO's contracting officer prior to the June 27, 1969, contract award.

In a letter dated August 14, 1969, a lawyer representing the principal who had submitted the successful contract proposal to OEO informed the contracting officer that no corporation had ever existed under the name used in the contract document. The letter identified the corporation that should have been designated in the contract and stated that it had been incorporated on June 9, 1969, in the State of California. The letter stated also that the corporation

had not obtained its certificate to transact business in the State of Maryland, the State in which the firm's principal office was located, until early in August 1969, or 1 month after the effective date of the contract.

As a result of the uncertainties regarding the contractor's authority to do business and of the general confusion surrounding the award of the contract, OEO's contracting officer terminated the contract on August 22, 1969, for the convenience of the Government. To cover contractor costs incurred to August 22, OEO paid the contractor \$28,550 of the total \$175,770 estimated contract amount.

As part of OEO's preaward investigation of the responsibility of prospective contractors, determinations should be made that contractors have adequate systems for recording and controlling contract costs. Such determinations are particularly important for cost-reimbursement contracts. It appears that these determinations have not been made in the past, since many OEO and Defense Contract Audit Agency<sup>1</sup> audit reports have been critical of contractors' accounting systems and internal controls.

In one case in which OEO auditors questioned \$4,773 of the \$13,673 costs reviewed because of inadequate accounting records, the audit report recommended that the contracting officer require the contractor to establish an adequate accounting system and related controls prior to awarding any further contracts to the firm. Other audit reports questioned costs claimed by contractors because of inadequate supporting documentation, and, on occasion, OEO auditors recommended that contracts be suspended until weaknesses in accounting systems and related procedures were corrected.

Onsite evaluations of contractors' accounting systems are a means available to OEO for determining whether prospective contractors have adequate systems for identifying and controlling contract costs. Our review of the 169 contracts awarded by OEO during fiscal year 1970 revealed no evidence that preaward onsite evaluations of contractors'

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<sup>1</sup>Cognizant audit agency for most OEO contracts.

accounting systems had been made by OEO or by the audit agencies acting on OEO's behalf.

The Federal Procurement Regulations state that pre-award onsite evaluations normally need not be performed when sufficient, current contractor organizational, technical, and financial data is available to the contracting officer. OEO, however, did not have such data on many of its contractors. To illustrate, our review of 46 of the 94 contracts awarded by OEO in June 1970 revealed that no such data was available on 24, or 52 percent, of the contractors and that data on five additional contractors, which had been obtained by OEO more than 12 months prior to the contract award dates, had not been updated.

## CHAPTER 3

### CONCLUSIONS, RECOMMENDATIONS, AND AGENCY COMMENTS

#### CONCLUSIONS

OEO awarded a significant proportion of its contracts during the final month of the fiscal year. Time constraints caused by June contracting resulted in OEO's not allowing prospective contractors sufficient time to develop and submit bids, which in some cases restricted the number of contract bidders and might have caused contractors to submit higher cost proposals than they might have submitted under conditions more conducive to informed bidding. Year-end contracting also limited the time available to OEO for evaluating contract proposals.

Other weaknesses in OEO's contract-awarding process, not necessarily associated with the large year-end contracting volume, were OEO's failure to include in the negotiation process all responsive bidders within the competitive range and OEO's inadequate efforts to determine the responsiveness of prospective contractors.

#### RECOMMENDATIONS

To reduce the volume of fiscal year-end contracting and to overcome the weaknesses in contract-awarding procedures and practices, we recommend that OEO:

- Require program and regional offices to prepare annual procurement plans that show their contract needs for each fiscal year quarter.
- Stagger contract performance periods, whenever feasible, so that contracts for continuing activities will reach completion in months other than June.
- Ensure that prospective contractors are allowed sufficient time to develop and submit proposals and require adequate OEO evaluations of all proposals submitted.

- Include in the negotiation process all contractors that have submitted responsive proposals determined by OEO to be within the competitive range.
- Make all reasonable efforts, prior to contract award, to obtain or develop, if need be through onsite evaluations, current information needed to determine prospective contractors' responsibleness. These determinations should include the adequacy of the prospective contractors' accounting systems, particularly for cost-reimbursement contracts.

#### AGENCY COMMENTS

OEO commented on a draft of this report by letter dated August 9, 1971. (See app. I.) OEO stated that it recognized the problems discussed in our report and informed us that the following actions were being taken to strengthen OEO's procurement process.

1. A directive was issued in April 1971 providing for the preparation of quarterly research and operating plans with a view toward reducing the number of awards in the last quarter of fiscal year 1972 to 25 percent. OEO expects that such early planning will tend to stagger contract performance periods so that completion will be reached in months other than June. The terms of certain contracts which involved continuing types of activities were extended, and thus some of the end-of-the-year pressure was alleviated.
2. As part of an effort to improve reviews of offerors' proposals, in May 1971, OEO established a Source Selection Board to evaluate proposed procurements over \$500,000. The Board consists of the Deputy Director, a senior member of the General Counsel's Office, and a senior member of the program area. The Board makes the final selection of the contractor by utilizing the findings of the Procurement Evaluation Board which evaluates proposals and negotiates with contractors submitting responsive proposals.

3. Increased efforts have been placed on including in the negotiation process all contractors that submit responsive proposals within the competitive range. During written or oral discussions with offerors that submit proposals within the competitive range, OEO is placing emphasis on pointing out any deficiencies, omissions, and ambiguities in the offerors' proposals and on affording them opportunities to clarify, correct, improve, or revise their proposals.
4. To more effectively determine a prospective contractor's responsibility, OEO has made a Contractor's Financial Analysis form, to be executed by the prospective contractor, a mandatory requirement in the request for proposals. In addition, greater emphasis is being placed on obtaining preaward surveys of prospective contractors.
5. A high-level task force has been convened to reexamine and assess OEO's planning process, as well as the various phases associated with project definition, project management, and source solicitation and selection.

We believe that OEO's revised procedures, if fully implemented, should correct the problems discussed in this report.

OFFICE OF ECONOMIC  
**OPPORTUNITY**

EXECUTIVE OFFICE OF THE PRESIDENT  
WASHINGTON, D.C. 20506

AUG 9 1971

Mr. Henry Eschwege  
Associate Director  
Civil Division  
U. S. General Accounting Office  
Washington, D. C. 20548

Dear Mr. Eschwege:

Set forth below are our views of your findings contained in your draft report entitled "Need for Improvements in the Contract Award Procedures and Practices Employed by the Office of Economic Opportunity", and the specific actions which have been taken with regard thereto.

Year-end contracting

One of the principal findings of your report, and one of the principal reasons for many of the problems relating to our procurement process, is that the Office of Economic Opportunity awards a large volume of contracts in June. We are aware of this fact and have taken remedial measures to overcome it. During the past fiscal year, we believe that there was a noticeable decrease in the percentage of contract awards in June. Our contract award statistics for Fiscal Year 1971 disclose that 33 percent of our contracts were awarded during the month of June compared to 56 percent in Fiscal 1970; and that these contracts represented an obligated contract value of 43 percent compared to 68 percent in Fiscal 1970.

One of the main reasons for this decrease in contract awards during June resulted from my issuance of a directive to all program activities which established April 1st as the cut-off date for submission of Procurement Requests to the Procurement Division. (Exhibit A). This directive, unlike similar requests in previous years, was strictly adhered to, and enabled procurement personnel to conduct their procedures in a more professional manner. Moreover, certain training and technical assistance contracts, which represented a continuing need of the Agency, were extended by their terms thus alleviating some end of the year pressure.

## APPENDIX I

Although I believe we have made significant improvements this past fiscal year in reducing the volume of fiscal year-end contracting, I have instructed our Controller to prepare quarterly research and operating plans with a view towards reducing the number of awards in the last quarter of Fiscal 1972 to twenty-five percent. To the extent that our legislative process permits adequate time for planning, I intend to fully enforce this goal. Such early planning will also tend to stagger contract performance periods so that completion will be reached other than in the month of June.

### Submission of contractors' proposals

[See GAO note 1, p. 33.]

We are mindful of our obligation to permit offerors a reasonable time to prepare proposals, as stated in the Federal Procurement Regulations. Our review of our 1971 procurements indicates that the "minimum bidding time" referred to in your report of 30 days was observed. Indeed, in certain procurements of a complex nature, we are allowing offerors sixty (60) days to submit their proposals.

### Evaluation of contractors' proposals

The evaluation of contractors' proposals by this Agency in previous fiscal years was another area covered by your report. We recognize that the findings you made in this area are a direct result of the emphasis on the June award of contracts. In our comments set forth above, we have described the measures that we have taken to remedy the June procurement problem. However, we would like to describe some of the steps we have taken to improve our technical review of offeror's proposals. In April, 1970, I issued eleven instructions dealing with the administration of grants and contracts in Headquarters (Exhibit B). Several of these instructions detailed procedures for review of technical proposals. It has been our experience that these review procedures have been very comprehensive and our contract files now contain detailed technical evaluations of all offeror's proposals. In addition, the project personnel participate in our contract negotiations and after the oral discussions are concluded they re-evaluate and make final ratings on the offeror's proposals. We believe, therefore, that we are now allowing sufficient time to evaluate our proposals. In support of this it is noteworthy that an average of two weeks was expended by our regional staffs in the technical evaluation process compared to the instance cited in your report of one of the regional evaluation panels having "spent only two and one-half hours evaluating the proposals".

In addition, for procurements over \$500,000, I have established a Source Selection Board. This Board consists of the Deputy Director, a senior member of the General Counsel's Office and a senior member of the program area. This procedure involves setting up a Procurement Evaluation Board, composed of usually five senior personnel of the Agency, together with representatives of the Procurement Division and the Office of General Counsel. The Procurement Evaluation Board makes a detailed evaluation of the Request for Proposal prior to its issuance both as to the content of the Statement of Work and the Evaluation criteria. The Procurement Evaluation Board then evaluates the proposals when they are received. These findings consist of a list of all offerors who are within a competitive range, capability, price, and all other factors considered. The Procurement Evaluation Board, with the representative of the Procurement Division who is a Board member, conducts oral discussions with those offerors in the competitive range. After such discussions, the proposals are re-evaluated and finally ranked. The Procurement Evaluation Board then submits its findings to the Source Selection Board.

The Source Selection Board after it is briefed by the Chairman of the Procurement Evaluation Board and the representative of the Procurement Division, then advises the Procurement Division of its selection. This procedure results in a detailed analysis of every step in the procurement process by the Deputy Director of the Agency, and many of its senior personnel. Indeed, this procedure has proven so effective that we are considering using it on all our procurements over \$300,000.

Contract negotiating practices

[See GAO note 1, p. 33.]

## APPENDIX I

[ See GAO note 1, p. 33.]

During Fiscal Year 1971 we put increased efforts on including in the negotiation process all contractors who submitted responsive proposals within the competitive range. We submit that our record of having negotiated with an average of 4.7 contractors during the fiscal year is a marked improvement over the averages indicated for the previous fiscal years covered by your report. In addition, during the conduct of written or oral discussions with offerors who submitted proposals within the competitive range, we are placing much emphasis in pointing out to the offeror deficiencies, omissions, and ambiguities in his proposal and to provide him with an opportunity to clarify, correct, improve or revise this proposal. In this regard, we are mindful that practices which amount to auctioning techniques are strictly prohibited; and the manner in which discussions are actually conducted must avoid the possibility of undesirable technical transfusion.

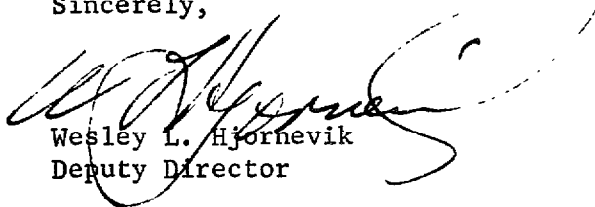
### Determining contractors' responsibility

Your report further indicated that the Office of Economic Opportunity has not adequately determined prospective contractor's responsibility as required by the Federal Procurement Regulations. In order to more effectively determine a prospective contractor's responsibility, we have incorporated OEO Form 193 "Contractor's Financial Analysis" (Exhibit C), as part of the RFP, and the offeror's completion of this form is a mandatory requirement of the RFP. This form provides the Contracting Officer with a data base in which to assess the financial capabilities of the offeror, prior to the time of proposal evaluation. In addition, during the past fiscal year, personnel from the Procurement Division, together with cognizant program personnel, performed, in several instances, on-site surveys

before contracts were awarded. These visits were made to determine prospective contractor's technical qualifications, as well as to review their organizational and financial capability. We have also placed greater emphasis on obtaining pre-award surveys on prospective contractors. To achieve this objective, the Procurement Division has established a close liaison with the Audit Division in obtaining contractor's cost information. For your information we are enclosing as Exhibit D, an example of financial and cost information furnished to the Procurement Division by a regional auditor subsequent to his receipt of the "Request for Audit Services" form. Furthermore, during the coming year we will give special attention to conducting on-site evaluations of contractor performance.

We trust that the response set forth herein demonstrate some of the positive measures we have undertaken to improve and strengthen our acquisition process. We believe that we have achieved a high degree of professionalism in this vital area. Notwithstanding our achievements, however, the acquisition process demands constant monitorship and it is with this in mind, that I have recently convened a high level task force to re-examine and assess our planning process, as well as the various phases associated with project definition, project management, and source solicitation and selection. In particular, I want programs structured and resources allocated in such a manner so as to insure that actual achievement of program objectives is the primary result.

Sincerely,



Wesley L. Hjernevik  
Deputy Director

Enclosures

GAO note:

1. The deleted material pertained to matters contained in the draft report which were not included in this report.
2. The exhibits enclosed with the Deputy Director's letter have been considered in the preparation of our final report but have not been included here.

PRINCIPAL OFFICIALS OF THE  
OFFICE OF ECONOMIC OPPORTUNITY  
RESPONSIBLE FOR ACTIVITIES  
DISCUSSED IN THIS REPORT

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
<b>DIRECTOR:</b>		
Phillip V. Sanchez	Sept. 1971	Present
Frank C. Carlucci	Dec. 1970	Sept. 1971
Donald Rumsfeld	May 1969	Dec. 1970
Bertrand M. Harding (acting)	Mar. 1968	May 1969
<b>DEPUTY DIRECTOR:</b>		
Wesley L. Hjernevik	Oct. 1969	Present
Robert Perrin (acting)	Mar. 1968	Oct. 1969
<b>ASSISTANT-ASSOCIATE DIRECTOR FOR ADMINISTRATION (note a):</b>		
Ernest Russell (acting)	Apr. 1971	Present
Robert C. Cassidy	Sept. 1967	Apr. 1971
<b>DIRECTOR, PROCUREMENT DIVISION:</b>		
Ralph A. Howard	Sept. 1969	Present
John A. Donohue	Aug. 1967	Sept. 1969

<sup>a</sup>The Office of Administration was called the Office of Management until June 1968.

Copies of this report are available from the U. S. General Accounting Office, Room 6417, 441 G Street, N W., Washington, D.C., 20548.

Copies are provided without charge to Members of Congress, congressional committee staff members, Government officials, members of the press, college libraries, faculty members and students. The price to the general public is \$1.00 a copy. Orders should be accompanied by cash or check.